

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GREGORY TAYLOR, :
Petitioner, : CIVIL NO. 3:CV-08-1547
v. : (Judge Caputo)
WARDEN BLEDSOE, :
Respondent. :
:

MEMORANDUM

Petitioner Gregory Taylor, an inmate currently confined at the United States Penitentiary at Lewisburg ("USP Lewisburg") in Lewisburg, Pennsylvania, commenced this *pro se* action by filing a Petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. For the reasons set forth below, the Petition will be dismissed for lack of jurisdiction.

BACKGROUND

On June 8, 2005, Taylor filed a petition for writ of habeas corpus with this Court challenging the validity of his 1989 conviction and sentence in the District of Columbia Superior Court. (See *Taylor v. Smith*, Civil No. 3:CV-05-1152, Doc. 1.) Taylor claimed that his sentence violated the prohibition against double jeopardy contained in the Fifth Amendment to the United States Constitution pursuant to the holding in *Blockburger v. United States*, 284 U.S. 299 (1932). (See *id.*) On July 29, 2005, this Court denied Taylor's Petition on the basis that he failed to demonstrate that the remedy available pursuant to D.C. Code § 23-

110 is not inadequate or ineffective to test the legality of his detention or sentence. (See *id.*, Doc. 11.)

Taylor filed the instant Petition (Doc. 1) on August 18, 2008. He seeks habeas relief in this Court on the basis that the District of Columbia Court of Appeals failed to apply *Blockburger* in reviewing the denial of his § 23-110 motions by the Superior Court of the District of Columbia. (See Doc. 1 at 1-3.)

DISCUSSION

Collateral challenges to sentences imposed by the Superior Court of the District of Columbia must be brought in that court under D.C. Code § 23-110. See *Blair-Bey v. Quick*, 151 F.3d 1036, 1042 (D.C. Cir. 1998) (§ 23-110 is exclusive remedy for such challenges). It is apparent from the documents attached to Taylor's Petition and from the record in his previous action filed at Civil No. 3:CV-05-1152 that Taylor already has filed multiple motions raising the same grounds under § 23-110, all of which have been denied.

D.C. Code § 23-110 provides, in relevant part, as follows:

An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion [under 23-110] shall not be entertained by the Superior Court **or by any Federal or state court** if it appears that the applicant has failed to make a motion for relief under this section or that the Superior Court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

D.C. Code § 23-110(g) (emphasis added). Generally, “[s]ection 23-110 has been found to be adequate and effective because it is coextensive with habeas

corpus.” *Saleh v. Braxton*, 788 F. Supp. 1232 (D.D.C. 1992); *accord Blair-Bey v. Quick*, 151 F.3d 1036, 1042 (D.C. Cir. 1998) (describing establishment of § 23-110 as “a remedy analogous to 28 U.S.C. § 2255 for prisoners sentenced in D.C. Superior Court who wished to challenge their conviction or sentence.”). The mere denial of relief does not make the § 23-110 remedy inadequate or ineffective. *See Garris v. Lindsay*, 794 F.2d 722, 727 (D.C. Cir. 1986).

Taylor has been denied relief under § 23-110 on multiple occasions. He has not claimed, and it does not appear, that a motion under § 23-110 is inadequate or ineffective to test the legality of his conviction and detention. Therefore, his habeas petition before this Court must be dismissed for lack of jurisdiction. An appropriate Order follows.

September 17, 2008

s/ A. Richard Caputo
A. RICHARD CAPUTO
United States District Judge

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ORDER

NOW, THIS 17th DAY OF SEPTEMBER, 2008, in accordance with the
foregoing Memorandum, **IT IS HEREBY ORDERED AS FOLLOWS:**

1. The Petition for writ of habeas corpus (Doc. 1) is **DISMISSED** for lack of jurisdiction.
2. The Clerk of Court is directed to close this case.
3. There is no basis for the issuance of a certificate of appealability.

s/ A. Richard Caputo
A. RICHARD CAPUTO
United States District Judge